IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2748 OF 2005

Dr. Bhimrao Sambhaji Jadhav..Petitioner

Versus

The Commissioner, Thane Municipal
Corporation & Ors..... ..Respondents

Mr. Nitin Pradhan i/b. Ms. S.D. Khot for the petitioner
Mr.R.S. Apte, for Respondent No.1.
Mr. A.Y. Sakhare, Senior Counsel I/b.Y.K.S. Legal for respondent No.3.
Mr. V.P. Malwankar, AGP for Respondent NO.2.

CORAM: F.I. REBELLO &
DR. D.Y.CHANDRACHUD, JJ.
DATE : 19th January,2006

P.C.:

. The petitioner herein has challenged the selection of respondent No.3 to the post of Medical Health Officer of the Thane Municipal Corporation. The respondent No.1 had issued advertisement inviting applications to the said post pursuant to which the petitioner herein, the respondent Nos. 3 and 4 amongst others had applied. The petitioner and respondent Nos. 3 and 4 appear to have been short listed for selection. In terms of the advertisement in so far as qualifications are concerned, the applicant had to hold an M.D. in Preventive and Social Medicine or Diploma in Public Health. The petitioner and respondent No.3 and 4 met with those requirements. In so far as experience is concerned the requirement was 10 years as Health Officer or 15 years as Medical Officer in Government Hospital or reputed Hospital. In so far as the petitioner is concerned, he has disclosed his

experience as 3 years experience as Health Officer and 14 years experience as Medical Teacher in the Preventive and Social Medicine Department (which is a Public Health Speciality). In so far as the respondent No.3 is concerned in the reply filed he has pointed out that he has worked from 13th January, 1984 to the end of January 2000 as Medical Officer with the State of Maharashtara. The respondent No.3 thereafter has produced a certificate issued by the Joint Director, Health Services, Government of Maharashtara, which shows that he has been working from 16th July, 1985 till the date of issuing the letter which is 17th June, 1999. The respondent NO.3 has also produced the break-up of the services rendered by him as a Medical Officer. It is seen that on 13th January, 1984 upto 16t June, 1985 he has been serving for some periods. Thereafter from 26th July, 1985 apart from 4 days in May, 1986 he has been continuously working upto 3rd February, 2000 in the Health Services as Medical Officer and from February, 2000 till the date when the application was invited as also on the date of selection he was working as Health Officer with the Corporation.

2. The Selection Committee had a marking system and in the marking system the petitioner was awarded 337 marks whereas to the respondent No.3 was awarded 367 marks. It is based on this that the respondent No.1 issued offer of appointment to respondent No.3 to the post of Medical Officer (Health) for the Thane Municipal Corporation.

3. On behalf of the petitioner learned Counsel submits that there is nothing shown as to the procedure followed by the Selection Committee in awarding marks. We have noted earlier that the petitioner and respondent No.3 both had necessary qualifications. The respondent No.3 had nearly 15 years experience as a Medical Officer whereas the experience of the petitioner was 3 years as Health Officer and 14 years as Medical Teacher. If in these circumstances that the selection is based on the marks awarded to respondent No.3 which are higher than the petitioner. We do not find that exercise as arbitrary. In the grounds raised also there is nothing before us to hold that the selection procedure was arbitrary or illegal or contrary to any Rules. Considering the above circumstances we do not find this to be a fit case where this Court should interfere with the selection of Respondent No.3 in the exercise of extra ordinary jurisdiction. Hence petition rejected.

(F.I.REBELLO, J.)

(DR. D.Y.CHANDRACHUD, J.)